

# **EXHIBIT 14**

**Expert Report of**

**Dan Guernsey**

**I. Background**

1. My name is Dan Guernsey. I have been retained as an independent expert by counsel for the plaintiff in the case of Sandra Glowacki, on behalf of her minor children, D.K.G. and D.C.G., Plaintiffs v. Howell Public School District, and Johnson (“Jay”) McDowell, individually and in his official capacity as a teacher in the Howell Public School District.

I understand that Plaintiffs Sandra Glowacki, on behalf of her minor children, D.K.G. and D.C.G., allege that Defendant Johnson McDowell, while acting pursuant to Howell Public School District training, supervision, policies, practices, customs, and/or procedures violated the constitutionally protected speech of D.K.G. I understand that the Plaintiffs also alleged that the Defendants deprived Plaintiffs of the Equal Protection of the law by promoting and approving homosexuality while punishing the Plaintiffs’ less favored religious views on homosexuality.

2. I have been asked to review elements of this case. I understand that the plaintiffs are asserting that the defendants violated the Free Speech Clause of the 1<sup>st</sup> Amendment and infringed the Equal Protection Clause of the 14<sup>th</sup> Amendment. I have been asked to evaluate the extent to which teacher behavior in this incident comports with expected and customary professional norms.

3. I expect to testify at trial regarding the subject matter set forth in this report.

**A. Qualifications**

4. I have worked in education for over twenty years in grades kindergarten through graduate school. I have been a school principal in grades K-12 with direct supervision and evaluation of teachers for over 9 years. I am a currently practicing principal.
5. I have served as the Dean of Education for Ave Maria University. My current title is Teacher Education Program Coordinator for Ave Maria University. I oversee Ave Maria University's new undergraduate minor in education and am tasked with laying the groundwork for a proposed education major at Ave Maria University.
6. I currently teach a course in *Foundations of Education* at Ave Maria University which covers topics including teacher ethics, state required professional educational practices, legal issues related to education, at-risk students and bullying, philosophy of education, and general expected norms for instruction and classroom management.
7. I give speeches on educational topics including leadership, Catholic educational philosophy, and school and classroom management. I have also spoken as the keynote speaker at multiple events for Catholic schools around the country.
8. A copy of my curriculum vitae is appended as Exhibit A to this report. I have not testified as an expert prior to this appearance. My publications and examples of some (but not all) presentations are provided in Exhibit A.
9. I hold a Doctorate in Educational Leadership from Eastern Michigan University as well as a Master's Degree in School Leadership from California State University, Fresno.

**B. Compensation**

10. I am being compensated for my services in this case at a rate of \$200 per hour in connection with my work on this matter. My fee is in no way contingent

on the outcome of this case or on any of the opinions I provide below.

**C. Summary of the Opinion**

11. Based on my experience and my review of the materials enumerated in this document the defendants:

- a. Acted against the First and Fourteenth Amendment rights of Daniel Glowacki
- b. Acted unethically in interactions with Daniel Glowacki
- c. Acted unprofessionally in interactions with Daniel Glowacki
- d. Acted in contradiction to best practices in creating a hostile educational environment antithetical to the proper education in a free democratic society
- e. Promoted homosexuality as an acceptable behavior while disregarding and punishing a student who voiced religious views based on Catholic Social Teaching.

12. The remainder of this report describes in detail the opinions summarized above and the bases for those opinions.

**II. Process**

13. I have been asked to evaluate the professional conduct of the effect of the defendants' actions related to this case, including his classroom management, curricular decision, and exercise of expected professional and ethical conduct. In doing so, I consulted with certain individuals and reviewed transcripts, videos, and documents relating to the dispute. These materials included, but are not limited to, the deposition of the Superintendent of the Howell School District Ronald Wilson. In forming my opinion, I drew on my

background and experience in the field of education and the evidence I reviewed in this case to determine the extent to which the teacher's conduct was in violation of expected professional norms and harmed Daniel Glowacki.

**D. List of Materials Considered for this Report**

14. In forming my opinions in this report, I have reviewed the following documents and materials: redacted student statements from Defendant Johnson McDowell's 6<sup>th</sup> Hour Economics Class, the depositions taken thus far in the litigation, the training materials of Dr. Marcia McEvoy, several written statements made by Defendant Johnson McDowell, and the video evidence included as exhibits to the deposition transcripts.

15. I also spoke with Ms. Erin Mersino and Mr. Richard Thompson

16. I also reviewed Michigan Department of Education Documents including:

- *The Michigan Teacher Code of Ethics (2003)*
- *Michigan Standards for Ensuring Excellent Educators (2005)*

17. I also reviewed the Code of Ethics of the Education Profession (1973) created by the National Education Association.

18. I also consulted class notes and materials related to my Foundations of Education Class

**III. Opinions**

**a. The Defendants Acted Against the First and Fourteenth Amendment Rights of Daniel Glowacki**

20. The First Amendment guarantees the rights of speech and of freedom of religion. The words "prohibiting the free exercise thereof" is the heart of the free exercise clause. Mr.

McDowell told Daniel Glowacki that he could not be a faithful Catholic and remain in his classroom and should not even be in his public school classroom if he was a “real” Catholic. “And he told me if I was a real Catholic, I would be going to a Catholic school. I told him not everyone could afford Catholic schools, and then at that point, he told me that—I’m blanking out. Q. Take your time. A. He told me that if I was against gays, that I could leave his classroom....[in the hallway] Mr. McDowell came out and told me that I was going to get suspended for being a racist and a bigot and that we was going to write me up a referral and I wasn’t allowed back in his classroom.” The instructor equated Catholicism with “being against” gays and hence this Catholic was not allowed in his classroom and thereby denied his first amendment right. The student was also denied his right to a free and appropriate public education. He was punished for exercising his right of free speech. In schools in the United States unless speech on a topic raised by the instructor clearly and explicitly disrupts the class it cannot be excluded because it is faith based or because it goes against the teacher’s personal agenda or philosophy. Disliking the content is not reason for censoring the content or punishing the student for responding reasonably and “on point” to a teacher question unless it invades the rights of others. The teacher created a hostile environment where a student was deprived of his rights to both speak and his right to be present to learn. Imagine if the student had given the “correct” “teacher approved” answer the teacher was looking for and felt pressured to shut up or even publically disavow his religion in an effort to preserve his grade or social standing in the class. That is not the American way and not indicative of a free and democratic civil education.

21. In his deposition the student clarified that while homosexuality “is against my religion. It’s against my beliefs” (p.32.7) he believes all homosexuals can go to heaven (p.46.16) and has never spoken ill of homosexuals in school (p.41.22) and believes it would be

in appropriate for anyone to do so (p. 42.5). He clarifies in his deposition that he, as his faith clearly teaches, is against Homosexual marriage (p.32.10). He repeats this on (p45.22) that he has been taught that homosexual marriage is wrong. Then he is asked "*Q. anything else about homosexuality you have been taught to believe?*" A. "No" (p 45.20). The student was kicked out of class for in his own fumbling way trying to make a faith based point about being "against homosexuals" i.e., homosexual marriage. He also naturally felt his own freedoms were at stake. The teacher summarily threw him out depriving him of his First and Fourteenth Amendments.

**b. The Defendants Acted Unethically In Interactions With Daniel Glowacki**

22. Professional ethical principles for educators are articulated by the state within which the teacher practices his or her profession. The state of Michigan has a code of teacher ethics. In addition the National Education Association (NEA) the largest national teacher's union and advocacy group also establishes ethical standards for its members. Its standards have been the national "gold standard" in teacher ethical principles. The Michigan Teacher Code of Ethics (2003) produced and ratified by the Michigan Department of Education, articulates at least three ethical areas which the teacher violated in this case: They are, in turn:

23. *The Michigan Teacher Code of Ethics 2. Mutual respect Ethical Principle:*

*Professional educators respect the inherent dignity and worth of each individual.* Webster's Dictionary defines dignity at "the quality or state of being worthy, honored, or esteemed" and also as refers to "formal reserve or seriousness of manner, appearance, or language

"(Debasement and degradation are the listedonyms). Mr. McDowell publically embarrassed Daniel by removing him from class, by confronting him in the hallway and calling him a "racist and a bigot" (p. 59.14) and communicating with the office about the student by phone

and within the hearing of other students. Mr. McDowell's interaction with this student did not respect the dignity and worth of Daniel Glowacki and left him feeling "*really stressed out and uneasy.*" (Exhibit B).

24. *The Michigan Teacher Code of Ethics 3. Equity Ethical principle: Professional educators advocate the practice of equity. The professional educator advocates for equal access to educational opportunities for each individual.* While he may have meant to create a safe environment for a selected pool of protected students, gay and lesbian students (who are in fact entitled to a safe environment) Mr. McDowell did so at the expense of a student stumbling to understand and articulate his own faith culture. Daniel Glowacki was not afforded equal access to the exploration of the topic presented by the teacher. The instructor deprived Daniel Glowacki of the educational opportunity of the instructor's class for reasons of the instructor's personal viewpoint. All students were not treated equally and all were not equally protected from a hostile environment. The student's naturally responded to this lack of equity:

"[Omitted student's name]: 'Why did [Daniel Glowacki] get kicked out for saying what he believes in, when you even asked him!?' " Mr. McD: 'I don't take or have anyone that discriminates like that in my class. [Omitted student's name]: 'He was just stating his opinion. He never said he hated gays.' . . . . [Omitted student's name]: Just because someone doesn't believe the same way as you why are they kicked out? '" (Exhibit C).

25. *The Michigan Teacher Code of Ethics 4. Diversity Ethical principle: Professional educators promote cross-cultural awareness by honoring and valuing individual differences and supporting the strengths of all individuals to ensure that instruction reflects the realities and diversity of the world.* The instructor directly shut down cross-cultural awareness by attacking and deeming as unworthy and even "racist and bigoted" the Catholic cultural tradition. This faith tradition, the largest in the world, embraced by over a billion people and



with centuries of thoughtful intellectual and spiritual insight into this topic, was summarily attacked and thrown out of the public square. There was no attempt to value or support the individual or any redeeming qualities of the tradition which has been an important part of the world and history for over 2000 years. Mr. McDowell not only did not promote cross cultural awareness, but was using base and inaccurate stereotypes about Catholics (who have their own schools) and disvaluing the fact that Catholics clearly affirm the dignity of all people while also clearly affirming the immorality of sexual activity out of the bonds of marriage- including homosexual activity. From the discovery documents it was reported that Mr. McDowell “pretty much said your religion can not say whether you like or dislike gays; your religion is wrong”. It is okay for him to personally hold this opinion, very problematic if he explicitly teaches it, and profoundly unjust if it causes him throw students out of the class for simply expressing this belief when asked. This is antithetical to diversity.

26. The National Education Association, Like the State of Michigan, also has an Educator Code of Ethics that its members are required to exercise. It states:

“The educator strives to help each student realize his or her potential as a worthy and effective member of society. The educator therefore works to stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful formulation of worthy goals.

In fulfillment of the obligation to the student, the educator--

1. Shall not unreasonably restrain the student from independent action in the pursuit of learning.
2. Shall not unreasonably deny the student's access to varying points of view.
3. Shall not deliberately suppress or distort subject matter relevant to the student's progress.
4. Shall make reasonable effort to protect the student from conditions harmful to learning or to health and safety.

5. Shall not intentionally expose the student to embarrassment or disparagement.

6. Shall not on the basis of race, color, creed, sex, national origin, marital status, political or religious beliefs, family, social or cultural background, or sexual orientation, unfairly--

- a. Exclude any student from participation in any program
- b. Deny benefits to any student
- c. Grant any advantage to any student

27. Mr. McDowell specifically did not help Daniel Glowacki realize his potential as a worthy member of society, but rather exiled him from the “society” of his classroom and refused to teach a student who was attempting to learn and understand his own culture and an important and controversial issues. Mr. McDowell unreasonably restrained (prevented) Daniel Glowacki from independent action (and thought) in the pursuit of knowledge. He unreasonably and deliberately denied the students access to varying points of view, specifically the student’s Catholic tradition. Not only did Mr. McDowell not reasonably protect Daniel Glowacki to conditions harmful to learning and to mental and emotional health and safety, the instructor became the primary force and locus of the harmful conditions. Court documents state, “Mr. McDowell was seeing red at the time. (Exhibit D- McDowell’s Statement to Dr. Sharp, Exhibit E- McDowell’s Statement to Jennifer Goodwin “Jay’s own term was that this when the exchange between the two became ‘hazy’ yet, Jay freely admitted that he was very upset.”). The teacher deliberately exposed Daniel Glowacki to embarrassment and disparagement in an attempt to make his political and social point. The student, BECAUSE OF his religious beliefs was excluded from participation in the teacher’s program and denied the benefit of that and subsequent educational time. We see this again in the report that “*Some students even stated that Mr. McDowell told Daniel Glowacki that he should go to a Catholic School due to holding his religious beliefs.* (Exhibit F (“if [Daniel Glowacki] really was Catholic, he would go to a Catholic school”), Exhibit C (“Mr. McD told [Daniel Glowacki] to go to a religious school

then”), Exhibit G (“*Another comment made by Mr. McDowell- if you do not accept gays, go to a Christian school*”). The teacher clearly acted unethically by the public school standards of the state of Michigan and by the Standards of Public School Teachers affiliated with the National Education Association.

**d. The Defendants Acted Unprofessionally In Interactions With Daniel Glowacki**

28. The State of Michigan properly sets minimum standards for its inexperienced entry level teachers. Veteran teachers are expected to have mastered these basic competencies. In this case the teacher has failed to follow the following Michigan Standards for Ensuring Excellent Educators, (MSEEE) State of Michigan Department of Education (2005)

29. MSEEE Standard: *A commitment to student learning and achievement, including the understanding and ability to apply knowledge of human growth, development, and learning theory.* There is no reasonable theory that would support acting as this teacher did. There was not application of knowledge or growth or development which prompted this decision. Just the snap decision of an angry adult. The instructor’s failure in this aspect as discussed in greater length in the next section

30. MSEEE Standard: *A commitment to student learning and achievement: Expand cognitive, affective, physical, and social capacities of students for the development of the “whole person.”* The exile and punishment of this student struggling to articulate his culture and his growing understanding in response to instructor prompting on an important topic was shut down by the professional instructor. Rather than dealing with the “whole person” the instructor chose to use Daniel Glowacki as a tool of political power and vengeance.

31. MSEEE Standard *Discern the extent to which personal belief systems and values may affect the instructional process, e.g., love of learning; the belief that all students*

*can learn; the belief that all students should be treated equitably; the role of expectations in affecting achievement.* The instructor failed in his professional capacity to properly discern and react to the personal belief system and value of this inquiring student. The instructor short circuited and unilaterally terminated the instructional relationship with Daniel Glowacki, setting up a hostile environment for him. The instructor made no effort to understand the personal belief system of the student. The instructor's lawyers in the deposition did a much better job than this professional educator in trying to understand the personal belief system of this young man: A belief system which the lawyers, not Mr. McDowell, discovered does not include the mistreatment, bullying or public disrespect of homosexuals.

32. *MSEEE Standard: Demonstrate appropriate classroom management and disciplinary techniques to ensure a safe and orderly environment which is conducive to learning.* The response of students, administrators and parents clearly demonstrates a failure to properly interact with the student and an abuse of disciplinary authority for the purpose of a teacher's personal agenda and private emotions. Students reported feeling "really stressed out and uneasy." (Exhibit B).

33. *MSEEE Standard: Plan instruction to accommodate diversity, e.g., cultural, racial, and social diversity.* Already addressed in the ethical portion, this aspect of the education process is so key as to be covered in two areas. No evident pre-planning was given to accommodate religious diversity. Rather than professionally planning for dealing with diversity, this professional educator's response was to kick diversity out of his class- even suggesting that this student, because of his Catholic faith and beliefs, should not be in a public school (Mr. McDowell told Daniel Glowacki that he should go to a Catholic School due to holding his religious beliefs. (Exhibit F) ("Mr. McDowell kept giving his opinion but wouldn't accept other students' opinions. He was defensive and irate when other opinions were brought

up.”).

34. *MSEEE Standard: Plan instruction to accommodate various backgrounds of students.* Similar to the point above, the lesson obviously deteriorated in a foreseeable but uncompensated for series of events. The teacher failed to prepare for what should have been clearly foreseen student objection on a controversial topic and for then responding in a way which was directly harmful to the rights of this student

35. *MSEEE Standard: Knowledge of subject matter and pedagogy, including the understanding and ability to create learning environments that promote critical and higher order thinking skills, foster the acquisition of deep knowledge, and allow for substantive conversation with the teacher and/or peers about subject matter.* Easily evaluated, one only need ask, did this occur for Daniel Glowacki? Did it occur for his classmates? If fact, the teacher shut down the opportunity for substantive conversation. Deep knowledge gave way to abuse of power by the teacher. This is a lack of professionalism. As reported in discovery, (Mr. McDowell “said that if anyone else didn’t accept a group of people (gays, blacks, etc.) that they could also leave the classroom”). In this class conversation is shut down by power. Reason and argument is trumped by personal passion. When this passion was combined with poor pedagogy the mix was toxic to Daniel Glowacki and others. It is extremely poor pedagogy to ask the leading, vague and explosive question to a teen age student, “Are you against gays” or similarly “Do you believe in gays?” As we discovered in his deposition, if the question is “Are you against gay marriage?” Daniel Glowacki’s answer would be yes- or in Mr. McDowell’s poorly turned question, “Yes I am against gays.” If by his question “Are you against gays?” Mr. McDowell meant are you against protecting gay students from harmful bullies? Then by his deposition, Daniel Glowacki would have responded – “No, I am not against gays.” A similar line of poor questioning can occur around the vague and explosive

question, “Do you believe in gays?” (This literally means do you believe they exist? Which only belies the shallow and poor nature of this question.) But in context, this question could mean one of many things: Do you believe gays should be protected from ridicule? Do you believe that it’s moral to practice homosexuality? Do you believe homosexuals be allowed to marry? These are all complex and important questions which reasonable and civil minded people may deem worthy of discussion. Mr. McDowell in his poorly pedagogy and “irate” responses along with disparaging remarks about Catholics confused all these questions and hence confused his class and deprived a student of his rights.

36. *MSEEE Standard: The ability to systematically organize teaching practices and learn from experiences, including the understanding and ability to Exercise good judgment in planning and managing time and other resources to attain goals and objectives; Maximize the use of instructional time by engaging students in meaningful learning experiences.* The instructor’s professional obligation was to teach a well-planned effective lesson on economics, aligned with state standards. The students have a right to the clear and well time presentation and evaluation of such material. This MSEEE requirement helps us to focus not just on the failure of the teacher to provide a well planned and managed and meaningful discussion on homosexuality, but also to point out that it is a violation of this standard to “plan” a discussion of homosexual experience for discussion in an economics course. This is a violation of legitimate student and parental expectations that economics will be discussed in an economics course. The instructor may feel strongly about the state of Michigan Football or of the social value of having a facebook page as well, but that does not give him the leeway to abandon the state approved economic curriculum and spend significant time on any other topic, however worthy. His students responded naturally to this unprofessional conduct: “I felt annoyed with the fact that my whole hour was wasted on arguing over a subject way off of economics. I felt



annoyed at the fact that the teacher let the class debate the whole hour and how personal views were being pushed on each other.” (Exhibit H). “During this whole time we could have been learning econ [*economics*] but instead many not appropriate subjects were brought up. I believe we should have the right to our own opinions and not be kicked out because someone doesn’t accept it.” (Exhibit I). The unauthorized lesson itself on homosexuality was poorly planned and executed. It was not meaningful and resulted in serious class disruption and extreme student confusion and consternation. There was also evidently no plan for assessment or evaluation of this lesson.

**D. Acted In Contradiction To Best Practices In Creating A Hostile Educational Environment Antithetical To Proper Educational Protocol In A Free Democratic Society.**

37 Part of the educational process includes assisting students to develop and embrace the proper dispositions for successful participation in a democratic society. Howell High school on its website describes its Core Values as “*Personal Responsibility, Respect, Integrity, Discipline & Enthusiasm, Collaboration, Creativity, & Communication*”. These are all worthy goals. Best practice in assisting to develop the values of teens in a free and democratic society is to first of all clearly present those values in a in a context of supportive, free, and respectful inquiry. The teacher failed in this core requirement and predictably has caused an impulsive reaction by his victim, but also a strong response from those other students in class who would normally be supportive of his position regarding protecting vulnerable gay and lesbian students. As positive as the teacher’s original goal may have been, he harmed the core of the educational enterprise and human freedom in his class.

38 In attacking legitimate inquiry in his class and in throwing out a student who dared question authority or step on the forbidden ground of blind acceptance of a teacher’s

agenda, the teacher destroyed the possibility of the formation of associations between him and this student (as well as others) that are necessary to promote an active, knowledge-seeking companionship between students and a teacher. In fact, it is arguable that the teacher engaged in bullying behavior himself. Webster's defines bullied or bullying as "1. to treat abusively 2: to affect by means of force or coercion. It describes a bully as (1) a person who teases, threatens, or hurts smaller or weaker persons." According to Pacers National Bullying Prevention Center <http://www.pacer.org> an act is defined as bullying when: The behavior hurts or harms another person physically or emotionally. Bullying can be very overt, such as fighting, hitting or name calling, or it can be covert, such as gossiping or leaving someone out on purpose. It is intentional, meaning the act is done willfully, knowingly and with deliberation. The targets have difficulty stopping the behavior directed at them and struggle to defend themselves.

39. We see in this case that a power imbalance was used by the stronger aggressor (teacher) to maintain power and social standing by embarrassing and attacking the weaker 'other' and kicking him out of the group and to which he was powerless to resist. Specifically, the pre-planned exercise of the teachers' wearing identical "Ryan's Army" shirt is a an already powerful social group (teachers) specifically uniting their power to wield more social power- some could view it as support- some could view it as intimidation. Teachers already have incredible power over students and their well being- groups of teachers massed for a social cause can be even more intimidating. What did the teacher, dressed in a Ryan's Army T-shirt do? What happens when a person in power becomes unglued at the natural impertinence of a challenging question offered in response to a teacher created drama and dynamic? According to depositions, "Mr. McDowell was seeing red at the time. (Exhibit D- McDowell's Statement to Dr. Sharp, Exhibit E- McDowell's Statement to Jennifer Goodwin "Jay's own term was that



this when the exchange between the two became 'hazy' yet, Jay freely admitted that he was very upset." It is sad but not surprising that the teacher may have chosen to fight fire with fire- To stop what he saw as a bullying belief or rationale with his own bullying behavior. The teacher was so upset and 'hazy' that he ironically bullied to get his way. He did not, as presented earlier, use appropriate questioning strategies or classroom management: he used the tactics of a bully- 1) Mr. McDowell used multiple sources of unbalance power: his group social power as a T-shirt wearing member of a group, his power as an adult, and most importantly his power as a teacher who holds the power of access to his classroom and his grades to 2) harm (kick out of class) and 3) name calling "Mr. McDowell was calling them 'racist'" (Exhibit G). And kicking him out calling him "discriminatory". In summary: the power imbalance was used by the stronger aggressor to maintain power and social standing by embarrassing and attacking the weaker other and kicking him out of, excluding him from, the group.

40. Mr. McDowell also failed in the central role of a teacher trying to instill values in a free and democratic society- which is to provide consistency and attraction to a teen toward the exercise of the important value of tolerance and respect. He hypocritically failed to model a steady and consistent standard of judgment. He failed to provide and model logical consistency for the always keen teens. He failed to provide a lived and modeled coherence of the ideal of tolerance and respect. He shut down and closed off a student's communication in an exercise of power, rebuke, and fundamental disrespect. He thwarted the opportunity for a legitimately enquiring student to better penetrate something perhaps unknown or fully appreciated by the student. It is critical that a student be able to ask the authorities in their life questions such as "If what you are telling me is true, then why and to what extent others reject it? If the values or beliefs you are suggesting to me are the correct ones, then how and why others do chose to act differently? If what you are saying is true, to what extent can reasonable

people or I disagree?” One cannot expect the young student to ask these questions with eloquence and tact, but it is critical not only that they CAN ask them without reprisals...But that they should be precisely encouraged to ALWAYS ask them- EVEN when they are in agreement with the propositions. This is the heart and flower of the educational enterprise and assures human and civic freedom.

41           Students possess a critical original need for dependence and the patience that a growing process requires. To grow in democratic values and freedom, students need access to a whole structure of values and meanings clearly and sincerely modeled around them. Students need access to complete information and they need the ability to take risks; they need the space to reasonably test their voice and their reasoning in security and freedom. They need a sympathetic teacher working with them as a guide and who works with them as a supportive, creative, knowledge seeking companion- not as judge jury and executioner if the student steps in the path of a teacher’s agenda- no matter how heart-felt that agenda may be. Students also need to verify the truths being placed before them by the adults around them using their freedom and their will. To deny them access to this fundamental, natural, and healthy process is to risk their revolt or require their blind submission. Neither is the goal of an authentic, free democratic education. Confusion, skepticism, despair and a killing of the spirit of inquisition which is at the heart of education and the intellectual enterprise can result if such classroom conduct goes powerfully unchecked. That students in high school might be impertinent or trapped in misconceptions is not a scandal or a crime, it is a natural occurrence to be acknowledged and then to be addressed professionally and ethically. When handled in a way which respects human freedom, the student will naturally be more inclined to test the hypothesis before him or her, and ultimately more likely to embrace it if at first it was strange or alien to them. The teacher must set up a healthy dynamic for student inquiry and growth.

The teacher must be a supportive and welcoming locus of meaning and consistency who then allows the student to verify what the teacher presents as true and worthy of free human consent.

42. Ultimately our democratic and free society calls upon the individual to face his existential reality alone: To form his own opinions and take accountability for them.

Encountering violent rejection from a teacher charged with guiding him will disorient and thwart growth rather than providing assistance in interpreting life in freedom. Without proper union of reason and exploration and democratic values, students risk becoming fanatical (like this teacher) or defensive and oriented by fear (like perhaps those who would bully homosexuals). Both are extremes to be avoided in public education in a civil society. It is refreshing and hopeful that so many of the other students responded dramatically and humanly to the harm this teacher did to the student and to the educational process.

“... after that class I left hurt and discriminated against for what I believe in.” (Exhibit J).

“Some of us were wondering, should we be kicked out for our opinion or beliefs?” (Exhibit I).

“After it all happened, I left feeling really stressed out and uneasy.” (Exhibit B).

“[*Omitted student's name*]: ‘Why did [*Daniel Glowacki*] get kicked out for saying what he believes in, when you even asked him!’” Mr. McD: ‘I don’t take or have anyone that discriminates like that in my class. [*Omitted student's name*]: ‘He was just stating his opinion. He never said he hated gays.’ . . . . [*Omitted student's name*]: Just because someone doesn’t believe the same way as you why are they kicked out?’” (Exhibit C).

“Mr. McDowell came back to class and was telling kids to keep their opinions to themselves. A student asked about freedom of speech. McDowell said not in his classroom, his rules.” (Exhibit G).

“Mr. McDowell kept giving his opinion but wouldn’t accept other students’ opinions. He was defensive and irate when other opinions were brought up.” (Exhibit G).

“Mr. McDowell wanted others to be tolerant of his views, but he was not tolerant of others.” (Exhibit G).

This is not just about an abstract right or about classroom management; this involves access to a free and effective education in a democratic society. It’s not as simple as just letting a kid back in the class. The violence to a spirit of free inquiry is done. The protection which the tentative and inquisitive teen is entitled and which he needs to thrive is gone. Despite the egregious nature of this incident, the teacher was essentially unpunished, leaving left only the pursuit of legal avenues to ensure student rights and well being.

#### V. Reservation of Rights

43. I currently hold the opinions expressed in this expert report. I reserve the right to supplement these opinions, however, in the event I become aware of additional pertinent information or in response to the testimony of others, including any experts offered by the defendants. Moreover, I may comment on, or testify in response to, the testimony of other witnesses, including witnesses who testify or submit reports on behalf of the defendants. During my testimony at any hearing or trial, I expect to rely upon exhibits or demonstratives prepared to depict and explain the information contained in this report. Any such exhibits or demonstratives will be prepared at my direction and be identified in advance of the hearing or trial. I also intend to rely on anecdotal evidence of my own experiences and observations in the relevant field.

Dated: September 28, 2012

A handwritten signature in cursive script, appearing to read "Daniel P. Guernsey". The signature is written in dark ink and is positioned above the printed name.

Daniel P. Guernsey, Ed. D.

# EXHIBIT A

## **EXHIBIT A CURRICULUM VITAE DAN GUERNSEY**

**Dr. Daniel Patrick Guernsey**  
513 Taylor Blvd.  
Ave Maria, FL. 34142  
(239) 280-2444  
Dan.guernsey@avemaria.edu

### **Education**

2000-2003 Eastern Michigan University, Ypsilanti, MI, 48197  
Doctor in Education, Ed.D.  
Educational Leadership Emphasis

1994-1996 California State University, Fresno, CA 93740  
Master of Arts in Education: Education Administration and Supervision  
Preliminary Administrative Services Credential (California)

1991-1992 University of San Francisco, San Francisco, CA 94118  
Single Subject Secondary Teaching Credential, English (California)

1990-1991 University of California, Berkeley, Berkeley, CA 94558  
Master of Arts in English

1984-1988 University of San Francisco, San Francisco, CA 94118  
Bachelor of Arts in English

### **Professional Experience**

2011-Present  
Teacher Education Program Coordinator for Ave Maria University  
5050 Ave Maria Blvd. Ave Maria, FL.

Duties: Founding coordinator for Ave Maria University's teacher education efforts.  
Developed and got approved by the faculty and Board a teacher education minor. Currently researching and coordinating a program plan to introduce an Education Major at Ave Maria University. Currently teaching EDU 201 Foundations of Education, Fall 2012.

2007-Present  
Headmaster, Donahue Academy of Ave Maria  
4955 Seton Way, Ave Maria, FL

Duties: Founding headmaster of Ave Maria University's K-12 school. Sole administrator in charge of all aspects of opening and running a private K-12 school including: design and user oversight of a \$6.5 million 30,000 sqft facility; Creation and design of an integrated K-12 classical curriculum; Faculty hires and student recruitment, marketing, finance, and policy

creation. Current student body of 260. Secured recognition as officially Catholic with the Diocese of Venice. Secured regional, national and state level accreditation with 4 accrediting bodies. Earned recognition as a "Top 50" Catholic school nationally.

2005-2007

President, Ave Maria College  
300 W. Forest Ave., Ypsilanti, MI. 48197

Duties: Direct all aspects of the College in a time of conflict due to institutional relocation from Michigan to Florida. Work in an actively litigious environment with the Board of Trustees in protecting the institution and successfully facilitating the transition to Florida, including creating, negotiating and implementing an institutional wide buy-out plan for all faculty and students. Work with multiple accreditation agencies and state and federal agencies in facilitating this process. Oversee and guide an international branch campus in Nicaragua. Assist them in strategic planning and in major restructuring of the institution as it transitions from the Michigan to the Florida mother campus and seeks accreditation by multiple accrediting agencies.

2006-2007

Adjunct Professor, Eastern Michigan University  
Porter Bldg. Suite 304, Ypsilanti, MI 48197

Duties: Instruct 2 sections of EDLD 515 Supervision and Program Evaluation in the Graduate School of Education at Eastern Michigan University.

2003-2005

Dean, Graduate School of Education Ave Maria University  
1025 Commons Circle, Naples, FL. 34119

Duties: Direct all aspects of the Graduate School of Education in its start-up phase: budgeting, courses, evaluation, staffing, accreditation, and facilities set-up. Supervise five faculty members operating in two locations. Sit on various committees including the academic affairs committee and the assessment committee (chair). Responsible for coordinating the AMU home school co-op school on campus. Program put on hold in 2005 pending accreditation for the University. Responsible for planning and directing the permanent K-12 private school in the town of Ave Maria.

2000-2003

Director of the Ave Maria Education Network, The Ave Maria Foundation  
One Ave Maria Drive, P.O. Box 373, Ann Arbor, MI 48106-0373

Duties: Direct all aspects of a network of 8 independent school sites in Ann Arbor affiliated with the Ave Maria Foundation. Oversee over 40 employees and 750 students. Involved in 4 major building projects or renovations, 2 school consolidations, and one school



discontinuation. Responsible for budget and all staff and student policy development and approval and conflict resolution within the system of schools. Founder and president of Ave Maria Missions which seeks sponsorships for over 200 children in two poor schools in Honduras. Trustee and liaison with the National Association of Private Catholic and Independent Schools (NAPCIS) which networks and accredits independent Catholic schools across the country. Visiting team chair for NAPCIS accreditation. Chairman of the Board for Father Gabriel Richard High School in Ann Arbor.

1996-2000

Principal, Delphos St. John's High School (Diocese of Toledo)  
515 E. Second St., Delphos, OH. 45833

Duties: Direct all facets of a parish high school with 330 students and 28 staff members. Highlights include coordinating networking for the internet, accreditation through NCA and the Ohio Catholic Conference, initiating a new building project, and fielding several state championship sports teams.

1993-1996

Teacher and Administrator, San Joaquin Memorial High School (Christian Brothers)  
1406 N. Fresno St., Fresno, CA. 93703

Position: Assistant Teacher Supervisor (1995-1996)

Duties: Assisting, observing, and formally evaluating teachers.

Position: Summer School Principal (1993-1996)

Duties: Sole administrator in charge of creating, coordinating, and running all facets of summer classes and sports programs.

Position: English Department Chair (1993-1996)

Duties: Guiding the English curriculum; Overseeing all facets of the English department (budgets, books, conflicts, course offerings); Introducing advanced placement courses; Participating in WASC accreditation process; Sitting on curriculum committee; Interviewing prospective teachers; Observing, evaluating, and guiding current teachers.

Position: Senior English Teacher, Forensics Coach, Retreat Team (1993-1994)

Duties: Instructing 5 periods of upper division English; Directing a forensics team; Coordinating and attending debate tournaments; Planning and guiding overnight student retreats.

1992-1993

Teacher, Salesian High School (Salesians)  
2851 Salesian Ave., Richmond, CA. 94804

Duties: Teacher, 10<sup>th</sup> grade English; 9<sup>th</sup> grade Religion  
Instructing students; supervising various student activities.

1988-1989

Teacher and Social Worker, Hospicio de San Jose Orphanage/School (Daughters of Charity)  
Ayala Bridge 1099, Manila, Philippines

Duties: Teacher, 10<sup>th</sup> and 11<sup>th</sup> grade Religion; Social worker; Working with toddlers and severely handicapped individuals.

1988

Teacher and Program Coordinator, St. Joseph's Centre (Salesians)  
18 WestCross Road, Madras, India, 600039

Duties: Instructing students in 9<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup> Religion; Coordinating and managing workings of an international child sponsorship program (The Christian Foundation for Children and Aging) consisting of 700 students and their foreign sponsors.

#### Related Experience

1991-1992 St. Anthony Foundation Women's Shelter Intake Coordinator, San Francisco, CA  
1989-1991 Hamilton Family Shelter Supervisor/Interim Manager, San Francisco, CA

#### Publications

Guernsey, D. & Barott, J. (June, 2008). Conflict in independent Catholic schools. In *Catholic Education a Journal of Inquiry and Practice*. Dayton, OH.

Guernsey, D. (2003). Board functions and practices: parameters and best practices in current school board literature. *National Association of Private Catholic and Independent Schools Resources*, [On-line], Available: <http://nadcis.org/boardfunctions/practice.doc>

Guernsey, D. (1998). *Adoration: Eucharistic texts from Throughout Church History*. San Francisco: Ignatius Press. (249 pages. Over 10,000 copies sold.)

#### Selected Presentations

Guernsey, D. (2006, June). *Spirituality of Leadership*, presented at the annual meeting of the National Association of Private Catholic and Independent Schools and *Evaluating Personnel, and Termination of Personnel*. A series of presentations at the leadership training seminar of the National Association of Private Catholic and Independent Schools, Naples, FL.

Guernsey, D. (2006, March). *Leadership as a vocation: serving the workplace and the home*. Presented to the Ann Arbor Catholic Men's Group, Ann Arbor, MI.

Guernsey, D. (2006, February). *Keeping your school Catholic*. Presented at the Annual National Pastors Conference, Naples, FL.

Guernsey, D. (2005, June). *Leadership basics, Communication skills, Negotiation and conflict resolution, and Legal issues for schools*. A series of presentations at the leadership training seminar of the National Association of Private Catholic and Independent Schools, Naples, FL.

Guernsey, D. (2003, June). *Best practices for your board*. Presented at the annual meeting of the

National Association of Private Catholic and Independent Schools, Ypsilanti, MI.

Guernsey, D. (2002, June). *Clinical supervision of faculty*. Presented at the annual meeting of the National Association of Private Catholic and Independent Schools, Ypsilanti, MI.

Guernsey, D. (2001, June). *Legal and policy concerns for schools*. Presented at the annual meeting of the National Association of Private Catholic and Independent Schools, Orchard Lake, MI.

Guernsey, D. (2001, November). *Contacts and concepts: uniting hearts and minds in Jesuit outreach ministries*. Presented at A Community and Solidarity Conference: A Renewed Spirit of Hope; Conversations related to Poverty and Homelessness, The University of San Francisco, San Francisco, CA.

#### Honors

- 1988 Dean's Medal as the Outstanding Senior in Arts, University of San Francisco
- 1988 Graduated Summa Cum Laude, University of San Francisco
- 1988 Alpha Sigma Nu- Jesuit Honor Society Member
- 1988 Campus Ministry Award for Outstanding Community Service, University of San Francisco
- 1987 Lynch Memorial Academic Scholarship for outstanding juniors in Arts and Sciences, University of San Francisco.

# EXHIBIT B

10/21/10

Mr. McDowell just wanted to explain to the class why some people were wearing purple and what it was for to just inform us about the situation.

[REDACTED] was wearing a Confederate flag on her belt buckle, and he kindly asked her to take it off because he didn't allow the Confederate flag to be worn in his classroom.

[REDACTED] asked what the deal was on why shouldn't she be allowed to wear her belt buckle because the flag was on it, which then led him to compare the rainbow flag to the Confederate flag, which Mr. McDowell got a bit offended by.

Mr. McDowell said that the flags were two separate things with two different meanings. He said that the rainbow flag was used to symbolize the gay community, but it was never used to hang human beings from trees and to hurt them just because their skin was darker. He said that because of those many reasons, that is why he does not allow the Confederate flag in his room.

[REDACTED] then said something ~~and~~ along the lines of the fact that he does not accept the gay community and that it was his beliefs.

Mr. McDowell then asked him to leave the classroom and said that if anyone else didn't accept a group of people (gays, blacks, etc.) that they could also leave the classroom.

One other student walked out into the hallway, and Mr. McBowen then stayed in the hall with the door closed for a brief time, then called Ms. Goodwin.

After that, the students asked multiple various questions on why [REDACTED] was kicked out for his beliefs, and that it could just be how he has grown up, his religion, etc.

After it all happened I left feeling really stressed out and uneasy. I understood that's what people's beliefs may be, but I felt that it didn't need to get to the point of saying them in front of the class. It went from just trying to educate us about recent events caused from bullying to acceptance, religion, etc.

# EXHIBIT C



8:30AM 10-21-17

Mr MCD: [redacted] give me your belt.  
[redacted] take it OFF (put [redacted] on floor)

Mr MCD: talks about ~~about~~ the gay day and the recent lives that have ~~been~~ been taken due to bullying.

[redacted] (hand up)

MCD: yes [redacted]

[redacted] Why is the rebel flag not ok but a rainbow one is?

Mr MCD: A rebel flag is racist and a rainbow flag isn't. I don't want them in my class. The rainbow flag used to stand for poor people.

[redacted] So why can you say a rainbow is ok and not a rebel. It makes no sense.

Mr MCD: ~~to~~ Do you not agree with ~~the~~ gays?

[redacted] It's against my religion  
MCD: get out of my class. You out for ~~the~~ good. (not welcome back) [redacted] walks out

~~Mr MCD~~ Mr MCD: Is there anyone else who don't believe in gays? [redacted] (raises his hand) yeah. can I leave to?

MCD: ~~to~~ Go

[redacted] (leaves) (Mr MCD <sup>caus</sup> goodness)

(It's a confederate flag)  
Mr MCD told go to a religious school then.

A little more convo between this don't remember exactly leading to Mr MCD asking option.



(different)  
MCD: Shows us the Gay pride  
day video we were going to watch.  
[redacted]: Why did [redacted] get kicked  
out for saying what he believed  
in, when you even asked him!?

Mr. MCD - I don't take or have any  
one that discriminates like that in  
my class.

[redacted]: He was just stating his opinion.  
He never said he hated gays.

Class: Yeah yeah.

MCD: Keep asking questions it's getting  
my mind off things

[redacted]: Just because someone doesn't  
believe the same way as you  
why are they kicked out?

[redacted]: Yeah, [redacted] can't wear my flag.

Mr. MCD: <sup>The rebel</sup> Flag shows racism  
and hanging and skinning black people  
I think it's offensive.

~~Mr. MCD~~ - we all talked about  
how Mr. MCD and a select few people  
believe you born gay and class  
ended.

\* I honestly believe this  
is unfair. Why can someone  
wear something I don't believe in

but ~~\_\_\_\_\_~~ to take it OK because they don't. he should be able to hear whatever you want. you can believe whatever you want as long as you not bullying or discriminating. I think Mr. McD should just deal with it because if he was hearing something everyone <sup>disliked</sup> ~~dislike~~ we would deal with it as well.

~~\_\_\_\_\_~~  
 I personally don't believe gay people are wrong or should be treated any different. It's just people believe different things if you ask ~~them~~ them they are going to share ~~to~~ their opinion. People have NO reason to get upset over someone else believes as long as there not bullying or making fun of them. It's fine to say whatever you want. If the teacher likes it or not. Freedom of speech

THANKS. ~~\_\_\_\_\_~~

# EXHIBIT D

10-21-10

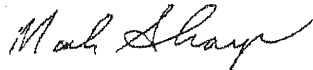
Regarding: meeting with Jay McDowell and Jen Goodwin

On Wednesday, October 20, 2010 I met with Mr. McDowell and Ms. Goodwin at around 2:25 PM. After coming in from supervising student dismissal, I noticed Mr. McDowell was meeting with Ms. Goodwin. During 6<sup>th</sup> hour, Mr. McDowell had sent two students to the student management office regarding an issue that he deemed unacceptable. However, he did not send a referral or any kind of written note regarding the two boys. Since one of the students was in my alpha I knocked on the door and entered. Mr. McDowell was with Ms. Goodwin and they were discussing the incident.

Mr. McDowell stated that one of his female students often wears a confederate belt buckle and on this day he noticed it and asked her to take it off. He said he was making a presentation regarding national anti-bullying day and as he did one of his students, Dan Glowacki, asked why is it wrong for a student to wear a confederate belt buckle but it OK for gay people to carry a rainbow flag in a parade. He said he explained the negative connotations of the confederate flag and informed Dan and the other students that the origin of the rainbow flag goes back to Jesse Jackson and was a symbol of the oppressed and poor.

He said the student challenged this rationale and thus he engaged in more dialogue with Dan. He said Dan said that being gay was against his religion. Mr. McDowell then said are you saying you do not like gay people. In response, he said Dan said "I guess that is what I mean. I do not condone that type of behavior." In response Mr. McDowell told the student to exit his room and that he could be suspended and may not be allowed back in his class. Mr. McDowell then stated he was seeing red at the time, but after reflecting on it he did not feel so strongly and as long as Dan would discuss this matter with him he would be allowed to return to class.

I told Mr. McDowell that I would be calling Dan in first thing the next morning to get his side of the story and try to gauge how Dan felt regarding this issue. I exited at this point (around 2:41) to head down to the 2:45 staff meeting.



Dr. Mark Sharp, Assistant Principal

# EXHIBIT E

October 20<sup>th</sup>, 2010

During 6<sup>th</sup> hour, I received a phone call from Mr. McDowell that two students, Daniel Glowacki and Adam Schang, both juniors, were to be removed from his class immediately. He then stated that they were going to be removed from his class for bullying and discriminatory actions and he did not want them back into his classroom. It was obvious by his tone he was upset. I told Mr. McDowell that I would send for the students, trying to find out what was going on.

I sent Dave DeVries, security, to room P-5 for both students. By the time I radioed for Dave, he actually already had both students on the way down to my office. Dave must have encountered either the students or Mr. McDowell prior to my radio message.

After both boys were present in my office, I then called back into Mr. McDowell's classroom and asked if he had time to inform me what happened. There was a pause – and I told him to follow up with me later, knowing students were still in the room.

Without knowing what happened, I interviewed Adam Schang with Aaron Moran present. Adam claimed that he did not know the context of what was being said in class, because he entered late – but did respond after Daniel made his comments something like “can I go too.” The only relevant piece of information that we could really decipher from Adam was that he made a pretty smart comment at an inopportune time. Mr. McDowell later stated that Adam was less involved in the scenario than Daniel was.

At 2:03pm I received the following email from Mr. McDowell:

*Can we talk after school? I am willing to them back in after a discussion with them that will lead me to believe they will not discriminate against students when they return.*

*Jay*

I never spoke with Daniel Glowacki in regards to the incident, as he is assigned to Dr. Mark Sharp.

When Mr. McDowell appeared in my office at 2:20pm, he started his conversation by telling me that he was doing a brief presentation on bullying to each of his classes, based on the nationally recognized day. He did make reference to the conversation within his classroom was focused on tolerance and acceptance. Mr. McDowell made reference to the PD day held prior to the start of school specifically on bullying.

He then said that he asked a female student to remove a confederate flag belt buckle, which elicited a response from Daniel Glowacki. At this point, Dr. Mark Sharp also entered my office, as Daniel falls on his side of the alphabet. Jay basically started over. Per Mr. McDowell, Daniel asked something to the effect of how Mr. McDowell had the right to ask her to remove her belt buckle – but rainbow flags fly everywhere, and he does not believe in that. Mr. McDowell said that he then tried to tell Daniel that the concepts (between the confederate flag and rainbow flag) were different. Jay's own term was that this is when the exchange between the two became “hazy” yet, Jay freely admitted that he was very

upset. The next statement Mr. McDowell made was he asked the student point blank if he was against (I believe that is the term he used, I am not 100% sure) gays. Daniel said yes. Mr. McDowell then told Daniel to leave the room and called me to come get the kids from the classroom.

He did say he told the students that they were not welcome back into his classroom, but had rethought his position and now simply wanted to have a conversation with the students to assure that they would not 'harass' or be 'discriminatory' towards others in his classroom.

Mr. McDowell also said that once the two boys left the classroom, other students did engage him in conversation about the incident. He said that some were questioning his right to act as he did. That he did not specifically have the right to get Daniel in 'trouble.' Others were in support of his actions.

I suggested parent contact immediately, knowing this situation could specifically become a large issue. I also stated that if they were going to meet prior to 'allowing' the student back into the room that a parent needed to be at that table also. I then made reference to personally knowing this parent, and that I had every expectation that if we did not contact her, there was no doubt in my mind she would be contacting us. Mr. McDowell said he already knew that, as Daniel had made some remark prior about Mr. McDowell stating he was going to call home about past behaviors. Per Mr. McDowell, Daniel said "Go Ahead, you are never going to win an argument with my mother."

Dr. Sharp's response was that he was not going to contact the parent and he wanted to speak with Daniel tomorrow to get his side of the story.

Mr. McDowell seemed to agree with Dr. Sharp, that parent contact was not necessary at this time, nor parent presence at this 'meeting' he was requesting before the student supposedly re-enter his classroom was the best course of action. Both made reference to my idea possibly being inflammatory to the situation.

I then told Mr. McDowell that we had to be extremely careful with these types of conversations within classrooms. I tried to then have a conversation with Jay about the sensitivity of this conversation within a classroom, to which he made his own inference in the direction I was going, saying 'Oh, I know the people above you do not have my back Jeni.'

Mr. McDowell then wrote two referrals for the boys, we spoke about another incident involving another teacher from the previous day, and both went to the staff meeting.

Jennifer Goodwin

Assistant Principal

# EXHIBIT F



Mr. McDowell asked [redacted] if she could take her belt off, - said that [redacted] thought it was stupid that she has to take her belt off (Confederate flag) but guys could wear rainbow shirts. [redacted] think that's what started the whole argument). [redacted] said that [redacted] Catholic so by them wearing rainbow shirts it was discrimination. He said if [redacted] really was Catholic [redacted] would go to a Catholic School. He then continued arguing about that and ended with if [redacted] didn't like guys [redacted] could leave his room, so [redacted] picked up [redacted] bag and left.

[redacted] 10/21/10

# EXHIBIT G

October 21, 2010

6<sup>th</sup> Hour, Howell High School

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Mr. McDowell was getting ready to show a movie clip on anti-bullying.

Student, \_\_\_\_\_ said it was against his religion to accept gays. Mr. McDowell pretty much said your religion can not say whether you like or dislike gays; your religion is wrong. I felt that he was bashing religion.

Mr. McDowell asked \_\_\_\_\_ if he accepted gays. \_\_\_\_\_ said, "No."

Mr. McDowell said if he \_\_\_\_\_ doesn't accept gays, to get out of his class. \_\_\_\_\_ and another student walked out.

Mr. McDowell was yelling at them as they left the room. Mr. McDowell yelled at them to stay out of the classroom until someone could get them. Mr. McDowell was calling them "racist."

Mr. McDowell came back to class and was telling kids to keep their opinions to themselves. A student asked about freedom of speech. McDowell said not in his classroom, his rules.

\_\_\_\_\_ was concerned about Mr. McDowell taking time away from class and making a big deal out of things; Ex. being tardy, kicking them out of class.

I do not feel comfortable being in class.

Another comment made by Mr. McDowell- if you do not accept gays, go to a Christian school.

Another student said he was atheist and that he was not bashing others because they believe in God; \_\_\_\_\_ got what he deserved. I believe Mr. McDowell didn't say anything about this because he supported the student.

Class ended after Mr. McDowell played the video about kids being made fun of because they were Gay and committing suicide.

At the beginning of hour, Mr. McDowell made a student take off a belt buckle of a rebel flag because it was around when blacks were hung and he didn't want it in his classroom; Mr. McDowell said his rules.

About a week ago part of the class time was spent on the issue of Mr. McDowell complaining about concessions by teachers. Mr. McDowell was speaking about how he was losing money because of insurance / 3% retirement issue.

I made a comment about secretaries paying for his insurance. He commented that I didn't know what I was talking about.

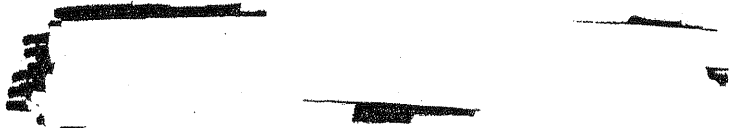
Later in the hour this was still an ongoing issue. Mr. McDowell was talking about how "don't ask, don't tell" is wrong; Howell needs to stop acting like we hate Blacks and stop being racist.

Mr. McDowell kept giving his opinion but wouldn't accept other students' opinions. He was defensive and irate when other opinions were brought up.

Towards the end of the hour I spoke up about my religion. Mr. McDowell said:

- My religion was wrong
- He asked where does it say not to accept Gays in the Bible
- He said words to the affect that if you are racist, you were raised wrong

Mr. McDowell wanted others to be tolerant of his views, but he was not tolerant of others.



# EXHIBIT H

9:00AM

10/21/10

Yesterday in class at the beginning  
 Of the hour Mr. McDowell had Brought  
 up that it was Purple day. to Stop  
 Bullying, then the Subject had diverged  
 to the Suicide of kids for being gay.  
 Then he got side tracked for a second  
 and had asked [REDACTED] to take off  
 her belt Buckle because it was the  
 rebel flag and he said that it  
 was offensive. Then a male student  
 had asked why it wasn't OK  
 to wear the flag, but people can wear  
 rainbow things. ~~Mr. McDowell said~~  
~~and said that being gay is against~~  
~~his religion. Mr. McDowell said~~  
 Mr. McDowell said that, eventhough  
 the rainbow represents Gays the flag  
 represents killing people and hanging  
 and skinning people alive, then the  
 student said that being gay is against  
 his religion. Then Mr. McDowell got  
 angry and ~~said~~ told him to get out of  
 his class room. then when he left another  
 student asked to leave then Mr. McDowell  
 went out in the hall yelled at the students  
 and slammed the door when he had returned  
~~he~~ he then went to his desk made a  
 phone call and class discussion on the  
 topic of Gays was open and people  
 were asking questions and trying to  
 tell Mr. McDowell that technically he  
 should not have told the kid to leave because

he had asked if he was against  
Clay's and the student gave his  
honest opinion, then after the  
class had asked questions, Mr.  
McDowell showed a video of a  
Congress meeting where a person  
brought up cases where children 12-15  
have committed suicide.

When class was over and when i  
had walked out of the class room  
i felt annoyed with the fact that  
my whole hour was wasted on  
arguing over a subject way off  
of economics. I felt annoyed at  
~~the~~ the fact that the teacher  
let the class debate the whole  
hour and how personal views  
were being pushed on each other.



# EXHIBIT I

9:00AM 10/21/10

During 6th hour 10/20/10 Mr. McDowell was going to show us a video about the gay and how so many die because of bullies. Then he ask [REDACTED] to take off her rebel flag belt. Then [REDACTED] asked the teacher what's the difference between a rainbow flag and a rebel flag. Mr. McDowell started telling us past history about the rebel flag. then he asked [REDACTED] if he accepted gays and [REDACTED] said it was against his religion and he did not believe in them. Mr. McDowell got angry and kicked him out of class. he compared it to saying he doesn't believe in blacks, which is a whole different issue. Then the class started asking more questions and it was like a war between the students and the teacher. Some of us were wondering should we be kicked out for our opinion or beliefs? During this whole time we could have been learning even but instead many not appropriate subjects were brought up. I believe we should have the right to our own opinions and not be kicked out because someone doesn't accept it.

[REDACTED]

# EXHIBIT J

Yesterday it was Purple day to support the killings  
 of the Suicides of the Kids that were bullied and  
 Mr. McDowell started the class by telling why people were  
 wearing purple I don't know why he talked about the rebel  
 flag and [redacted] ask why we can't wear the rebel flag and  
 McDowell explained what the rebel represents to most people and  
 [redacted] started the argument by saying "If he can't wear the  
 rebel flag why can the gay be free to wear the rainbow flag  
 McDowell explained ~~that~~ that it isn't a public disturbance to  
 wear ~~on~~ rainbow flag they have parades and everything but  
 [redacted] said "It's against my religion to believe in gays"  
 McDowell told [redacted] to leave after he left many of the kids expres-  
 sed to McDowell that you asked [redacted] a straight question and he  
 gave him a straight answer McDowell never asked [redacted] a question he  
 was explaining why gays have the right to wear rainbow flags  
 [redacted] replied by saying his ~~opinion~~ ~~opion~~ opinion it is wrong  
 and Discriminating against gays for [redacted] to say his  
 opinion he can believe in whatever he believes in but he  
 doesn't have the right to Discriminate using his opinion  
 I sat there taking all that was said same with [redacted] and  
 [redacted] that day [redacted] was kicked out so was I after the discuss-  
 [redacted] stormed out because of what was said I was going  
 to also but ~~it~~ I didn't after that class I left  
 hurt and Discriminated against what I believe in.

10-31-10